

**SHOREVIEW PLANNING COMMISSION  
MEETING  
January 24, 2012**

**CALL TO ORDER**

Chair Feldsien called the meeting of the December 6, 2011 Shoreview Planning Commission meeting to order at 7:00 p.m.

**ROLL CALL**

The following members were present: Chair Feldsien; Commissioners Ferrington, Proud, Schumer, Solomonson and Wenner.

Commissioner Mons was absent.

**RECOGNITION FROM MAYOR AND CITY COUNCILMEMBERS**

Mayor Martin with City Councilmembers Huffman, Quigley, Wickstrom and Withhart presented a plaque of appreciation to Chair Feldsien who is retiring from the Planning Commission after 24 years of service. Commissioner Mons is also leaving the Commission but was absent; a plaque will be given to him. Mayor Martin and Councilmembers expressed their appreciation to the Planning Commission for their thorough work. Often the Commission is at the front of an issue, and does very valuable work with detailed review in application of City ordinances.

Chair Feldsien expressed his gratitude to the Council. He has been challenged with each new issue and has appreciated serving the City.

**APPROVAL OF AGENDA**

**MOTION:** by Commissioner Schumer, seconded by Commissioner Proud to approve the January 24, 2012 agenda as submitted.

**VOTE:**                                      **Ayes - 6**                                      **Nays - 0**

**APPROVAL OF MINUTES**

Page 10: Commissioner Proud requested that “obstruct use of the fire station...” in the text to the last paragraph be deleted and replaced with ongoing incompatibility.

**MOTION:** by Commissioner Proud, seconded Commissioner Schumer to approve the December 6, 2011 Planning Commission minutes as amended.

**VOTE:**                                      **Ayes - 5**                                      **Nays - 0**                                      **Abstain - 1 (Wenner)**

Commissioner Wenner abstained, as he was not present at the meeting.

## **REPORT ON COUNCIL ACTION**

City Planner Kathleen Nordine reported that the Council approved the modification to Municipal Development District No. 2 and a proposed tax increment financing (TIF) plan for District No. 7 for the Southview senior development.

Two new Planning Commission members will begin their terms at the February 2012 meeting.

The Environmental Quality Committee has three remaining presentations in its series:

February 15	Attracting Birds to Your Yard
March 21	The Twin Cities Ecosystem Project
April 18	The Future of Public Transit in Shoreview

## **NEW BUSINESS**

### **A. PUBLIC HEARING – TEXT AMENDMENT-CHAPTER 200, INCLUDING SECTION 207.050, NONCONFORMITIES & SECTION 208.080, NONCONFORMING SIGNS**

<b>FILE NO:</b>	<b>2438-12-01</b>
<b>APPLICANT:</b>	<b>CITY OF SHOREVIEW</b>
<b>LOCATION:</b>	<b>CITY WIDE</b>

City Attorney Filla stated that he has reviewed the Affidavit of Publication indicating that proper notice has been given and the public hearing is in order.

### **Presentation by City Planner Kathleen Nordine**

State Statutes were amended in 2004 in to indicate that nonconformities have a right to continue and can be repaired, replaced, restored, maintained or improved. The text amendments proposed are to comply with State law.

Section 207.050 defines nonconformities pertaining to uses, lots and structures. All text referring to termination of use or structures has been removed. Text has been revised to be consistent State Statute regarding nonconforming structures and the 50% rule. Regulations regarding nonconforming structures also apply to signs, antennas and towers. Section 208.080 regarding signs has been removed, as it is now covered in Section 207.050.

In regard to Section 209.080, regarding nonconformities in Shoreland Districts, Counsel and staff are in the process of researching how the statute changes impact shoreland properties.

The proposed amendments are consistent with state law, and staff is requesting that the Planning Commission forward a recommendation of approval to the City Council.

Commissioner Ferrington asked for clarification in deleting the word “principal” and replacing it with the term “use.” Ms. Nordine explained that prior to current law there was a distinction

between a principal use and an accessory use. Now the law refers to any use and so the term “principal” is no longer a necessary distinction.

Commissioner Wenner asked if reconstruction of a damaged or burned building can be altered from the prior nonconformity. Ms. Nordine responded that reconstruction can be done on the same footprint. If there is any expansion, it must comply with current City Code. Updated improvements can be made.

Commissioner Solomonson stated that nonconforming and illegal appear to be the same and asked how to determine nonconformity or illegality. He further asked if a structure with a permit that did not have a final inspection would be conforming but illegal, as in the case when a final occupancy inspection is not done. Ms. Nordine stated that a determination would be made on whether or not a permit was pulled. For older structures, staff would seek documentation from the homeowner. Yes, a structure could be conforming and still be illegal if the required approvals were not obtained.

City Attorney Filla explained that nonconforming means it was conforming at one time but with Code changes, it became nonconforming. An illegal building has always been illegal.

Chair Feldsien asked for clarification of the terms “damage” or “destroy.” City Attorney Filla stated that he does not differentiate the terms. If the building is damaged or destroyed more than 50%, the rules kick in.

Chair Feldsien opened the public hearing. There were no public comments or questions.

**MOTION:** by Commissioner Schumer, seconded by Commissioner Ferrington to close the public hearing.

**VOTE:** Ayes - 6  
Nays - 0

**MOTION:** by Commissioner Solomonson, seconded by Commissioner Wenner to recommend the City Council approve the text amendment to Chapter 200 of the Municipal Code, Section 207.050 and Section 208.080 pertaining to nonconformities. The ordinance is consistent with the changes in State Law adopted in 2004.

**VOTE:** Ayes - 6 Nays – 0

## **MISCELLANEOUS**

### **City Council Meetings**

Commissioners Wenner and Schumer respectively will attend the February 6th and February 21st City Council meetings.

### **Planning Commission Chair and Vice Chair**

Chair Feldsien recused himself from voting on this item.

Commissioner Proud stated that he strongly supports rotation of the Chair position but would be willing to serve as Chair, if no one else steps forward. He also supports the process of Vice Chair becoming Chair.

Commissioner Wenner agreed with rotation of the Chair position. An orderly rotation procedure should be established according to the terms members have been appointed. A rotation process was recommended by the City Council. Rotation offers the opportunity of leadership to all Commissioners.

Commissioner Solomonson stated that he does not agree with appointing the Chair position on the basis of seniority. It should be rotated, but junior members should not be excluded.

Commissioner Schumer agreed with a rotation process and nominated Commissioner Solomonson.

Commissioner Proud nominated Commissioner Wenner. Commissioner Wenner withdrew his name from consideration and nominated Commissioner Proud.

MOTION: by Commissioner Schumer to close the nominations.

VOTE: Ayes - 5 Nays - 0

Ballots were distributed. Chair Feldsien collected the votes and announced that Commissioner Solomonson was voted to be Chair.

Chair Feldsien opened nominations for Vice Chair. Commissioner Wenner nominated Commissioner Schumer. Commissioner Ferrington nominated Commissioner Proud.

Chair Feldsien closed nominations, and ballots were again distributed for a vote. Chair Feldsien collected the votes and announced that Commissioner Proud was voted to be Vice Chair.

## **WORKSHOP**

City Planner Nordine informed the Planning Commission of a workshop on March 12, 2012, hosted by the Urban Land Institute regarding *Navigating the New Normal*. It considers policies in the current economy. A formal invitation will be sent to Commissioners. A social hour will begin at 6:30 p.m., and the meeting will begin at 7:00 p.m. Others attending will be the City Council, Economic Development Authority and the Economic Development Commission.

## **Text Amendments - Environmental Regulations**

City Planner Nordine introduced the new Environmental Officer for the City, Jessica Schaum. She has been asked to look at how current regulations can be strengthened. The amendments being reviewed at this meeting are in regard to vegetation and woodland ordinances and water quality ordinances. Proposed amendments will be on the February 28th Planning Commission meeting agenda.

Ms. Schaum stated that in regard to vegetation and woodland, an amendment is proposed for shade tree management that would include addressing the Emerald Ash Borer (EAB), as well as any new pest infestations.

Commissioner Proud made a number of suggestions regarding the amendment provisions:

1. He asked the reason for only referring to shade tree rather than tree. Ms. Schaum explained that the language is from the Department of Agriculture, and that definition is broader than a maple or an elm. She will clarify the definition at the February meeting.
2. On page 1, Section 2A, he cautioned the use of “practical” which may go beyond what is meant.
3. In reference to property, he suggested specifying exterior property, as there is no intent to enter the interior of a property.
4. Page 3, Section 5 should include disposal as well as transportation of diseased wood.
5. Page 3, item 20, he suggested the reference be to stumps with or without bark.

Commissioner Solomonson asked if disposal is relevant on Page 3, Section 5, if the diseased wood is quarantined. Ms. Schaum explained that disposal can be done through chipping or removal. The diseased trees can only be removed in winter, when the pest is not active.

Chair Feldsien asked if shade trees include shrubs and bushes. Mr. Warwick responded that this is covered in the statute. Chair Feldsien requested that treatment include “other methods” to cover any future treatments developed.

## **Water Quality**

This change is to require that vegetation be established within two weeks of development to prevent erosion; it will also be easier for staff to monitor and enforce. Work done in the winter would have a deadline of May 15.

Commissioner Ferrington stated that this change would make it more difficult to use native plants or seed. A deadline of two weeks dictates use of sod. Burlap barriers can be used to decrease erosion. She suggested that use of native plants and seed be taken into consideration. Permanently established vegetation, she believes, means it is up and growing. Ms. Nordine stated that staff is looking for action on the part of the property owner within 14 days, whether it be seed or sod.

Commissioner Solomonson asked if there is a concern for chemicals treating EAB getting into water. Ms. Schaum noted that the option of using chemical soil drenching is strongly discouraged. The method preferred is injection, if the tree is not removed.

Ms. Schaum stated that the Minnesota Pollution Control Agency NPDES and SWPPP permit requirements for storm water discharge requires the City to have regulations pertaining to illicit discharge. The plan establishes guidelines and violations for dumping into the storm water system.

Page 3, Chair Feldsien suggested the provision apply to “any land use.” He also noted that discharge from foundation drains is permitted in one place but not in another. He asked if, on page 6, such discharges should be exempt. Mr. Warwick stated that the listed discharges are exempt but

must flow across open area to be filtered and exposed to air. Sediment is left in grass rather than reaching the storm sewer. This can be clarified in the text.

Referring to page 7, item 8, Commissioner Proud stated that reference to using Best Management Practices could be a performance burden for the City and expensive. He would like to see a performance standard that is practical, reasonable and affordable.

Commissioner Proud questioned the use of the term “coal tar sealant” and that a clear definition be provided for residents. Ms. Schaum stated that specific definitions are included in the text of a proposed ban that will be included in Chapter 600 of the City Code. Menard’s, Lowe’s and Home Depot have pulled coal tar products from their shelves. Mn/DOT requires asphalt, and the City uses only asphalt.

Chair Feldsien asked about contractors who seal driveways. Ms. Nordine stated that they have two products, one with coal tar and one that is asphalt. Staff is looking at methods to educate contractors and homeowners about the use of these products and City requirements.

### **Planning Commission Workshop**

Chair Feldsien noted that the Planning Commission will hold a workshop meeting prior to the regular meeting scheduled for February 28 that 6:00 p.m.

After a brief discussion, it was the consensus of the Commission to hold the workshop after the regular meeting, not before.

### **ADJOURNMENT**

**MOTION:** by Commissioner Feldsien, seconded by Commissioner Schumer to adjourn the regular Planning Commission Meeting of January 24, 2012, at 8:23 p.m.

**VOTE:**                      **Ayes - 6**                      **Nays – 0**

ATTEST:

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Kathleen Nordine  
City Planner